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EXAMINER	
EL CHANTI, HUSSEIN A	

ART UNIT	PAPER NUMBER
2157	

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/026,397	HAYDUK, MATTHEW A.	
	Examiner	Art Unit	
	Hussein A. El-chanti	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 August 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *20-38* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *20-38* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to amendment received on August 21, 2006. Claims 20-38 are pending examination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by Roel-Ng et al. U.S. Patent No. 6,002,936 (referred to hereafter as Roel).

As to claim 25, Roel substantially teaches a method comprising: determining what communication services are available to a mobile device; and (See col. 5, lines 29-49) determining the optimum positioning and quality of service)

updating a client classmark for the mobile device based upon what communication services are available, wherein the client classmark is to be used by one or more client applications executed in the mobile device to determine one or more current attributes of the mobile device (See Fig. 1 index (10 12 18, 25), col. 4, line 65-col. 4, line 14).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

> the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claim 20, 21, 24 and 30 are rejected under 35 U.S.C. §103(a) as being unpatentable over Roel-Ng et al. (US 6,002,936) in view of Gosling et al. (US 6,405,241).

As to claim 20, Roel substantially teaches a mobile computing device comprising: a processor; and (See Fig. 3 index (300) inherently includes a processor)

a memory, wherein the mobile computing device is adapted to dynamically generate a client classmark as the mobile computing device is moved. (See Fig. 3 indices (300, 310) device 300 inherently includes memory - See also col. 4, line 60-col. 5, line 14).

Roel does not specifically teach "dynamic generation of information". However, Gosling does. See col. 3, lines 20-45. Hence, it would have been obvious for an artisan of ordinary skill in the art to combine the mobile device taught by Roel-Ng with dynamically generating information disclosed by Gosling. Such system would dynamically generate information upon execution of an application rather than incurring a process start-up expense while generating the dynamic information. Claim 21: Roel teaches the mobile computing device of claim 20, wherein the mobile computing device is further adapted to communicate using at a first and second communication service, the client classmark being generated depending, at least in part, on availability of the first and second communication service. (See Fig. 1 (10, 12. 18 25) col. 4, line 41-59.)

As to claim 24, Roel teaches the mobile computing device of claim 20, wherein the memory is adapted to store the client classmark. (See Fig. 3 index (310), col. 5, lines 1-14). It is inherent that the client classmark is stored in memory.)

As to claim 30, Roel teaches the method of claim 25, further comprising:

adjusting the execution of an application on a processor in the device depending on the client classmark. (See col. 4, line 60-col. 5, line 14.)

As to claim 31, Roel teaches the method of claim 25, further comprising:

Requesting with a first application executing on a processor in the mobile device that a second application executing on the processor modify its operational characteristics.

As to claim 32, Roel teaches the mobile computing device of claim 25, further comprising storing the client classmark in a memory of the mobile device. (See Fig. 3 index (310), col. 5, lines 1-14). It is inherent that the client classmark is stored in memory.)

4. Claims 22, 23 are rejected under 35 U.S.C. §103(a) as being unpatentable over Roel-Ng et al. (US 6,002,936) in view of Gosling et al. (US 6,405,241) in further view of Sekizawa et al. (US 5,410,651).

As to claim 22, Roel teaches the mobile computing device of claim 20 as discussed above. Both Roel-Ng and Gosling are silent as to °a monitor adapted to track a load status of the processor: wherein the client classmark is generated at least in part based on the load status of the processor."

However, Sekizawa does. See col. 1, lines 64-66; col. 3, lines 55-66; and col. 7, lines 10-41 particularly lines 10-12, 25-29 and 38-42. Hence, it would have been obvious for an artisan of ordinary skill in the art to combine the teachings of Roel-Ng and Gosling with the program loading method of Sekizawa. Such system would greatly improve the situation when a processor undergoes a concentrated load where the rapidity of a series of processes is reduced.

As to claim 23, Roel teaches the mobile computing device of claim 20 as discussed above. Both RoelNg and Gosling are silent as to "a monitor adapted to track a load status of the processor, wherein the client classmark is generated at least in part based on the load status of the processor."

However, Sekizawa does. See col. 1, lines 64-66; col. 3, lines 55-66; and col. 7, lines 10-41 particularly lines 10-12, 25-29 and 38-42. Hence, it would have been obvious for an artisan of ordinary skill in the art to combine the teachings of Roel-Ng and Gosling with the program loading method of Sekizawa. Such system would greatly improve the situation when a processor undergoes a concentrated load where the rapidity of a series of processes is reduced.

5. Claims 26 and 29 are reiected under 35 U.S.C. §103(a) as being unpatentable over Roel-Ng et al. (US 6,002,936) in view of Rawson III (US 6,480,966.)

As to claim 26, Roel-Ng teaches the method of claim 25 as discussed above. Roel-Ng does not specifically teach: polling to determine the hardware capacity of the device, wherein updating the client classmark includes updating the client classmark for

the mobile device based upon the hardware capacity of the device. (The performance monitor indicates the hardware capacity of the device.)

However, Rawson explicitly teaches this limitation throughout specifically at col. 4, lines 25-30. Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the use of mobile device taught by Roe[-Ng with the performance monitor as taught by Rawson because performance counters permit processor performance parameters to be monitored and measured where the information obtained from these counters can then be used for tuning system performance.

As to claim 29, Roel-Ng teaches the method of claim 25 as discussed above. Roel-Ng does not specifically teach: determining a current load of a processor in the mobile device, wherein updating the client classmark includes updating the client classmark for the device based upon the current load of the processor.

Roel-Ng does not specifically teach determining a current load or performance status. However, Rawson explicitly teaches this limitation throughout specifically at col. 4, lines 25-30.

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the use of mobile device taught by Roel-Ng with the performance monitor as taught by Rawson because performance counters would permit processor's performance parameters to be monitored and measured where the information obtained from these counters can then be used for tuning system performance.

6. Claims 27-28 are rejected under 35 U.S.C. 103(aLas being unpatentable over Roel-Ng et al. (US 6,002,936) in view of Koehne, Leif EP 0 980 190 A1.)

As to claim 27, Roel-Ng teaches the method of claim 25 as discussed above. Roel-Ng does not specifically teach: polling to determine logical capabilities of the device, wherein updating the client classmark includes updating the client classmark for the device based upon on-board software of the device.

However, Koehne explicitly teaches available modes of operation at paragraph 0043. (the modes of operation supported are directly related to on-board software.)

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the use of mobile device taught by Roel-Ng with the available modes of operation as taught by Koehne because on-board software determines the modes of operation by limiting the services that can be accessed.

As to claim 28, Roel-Ng teaches the method of claim 25 as discussed above. Roel-Ng does not specifically teach: defining user preferences, wherein maintaining the client classmark includes maintaining a client classmark for the device based upon the user preferences.

However, Koehne explicitly teaches user preferences at paragraphs 0043 and 0056. Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the use of mobile device taught by Roel-Ng with the user preferences as taught by Koehne because user preferences would be used to provide a specific service.

7. Claims 33-36 and 38 directed to an article are rejected under 35 USC 103(a) as being unpatentable over Koehne (EP 0 980 190 A1 in view of Purpura (US 6,973,518).

As to claim 33, Koehne substantially teaches an article comprising a storage medium having stored thereon instructions, that, when executed by a computing platform, results in: dynamically generating a client classmark for the article based upon what communication services are available, wherein the client classmark is configured to be used by one or more client applications on a mobile device to determine capabilities of the mobile device. See paragraphs 0043-0057)

Koehne is silent as to "polling to determine one or more hardware capabilities of the device, wherein the client classmark is configured to be used by one or more indictaors about the one or more hardware capabilities of the device." However, Purpura does disclose said limitation. See col. 9, lines 35-39 and col. 11, lines 20-23. Hence, it would have been obvious for an artisan of ordinary skill in the art to combine the teachings of Koehne with the mobile apparatus for configuring portable devices as taught by Purpura. Such system would provide for hardware and software configuration of different devices.

As to claim 34, Koehne substantially teaches the article of claim 33 as discussed above. Koehne is silent as to "polling to determine one or more hardware capabilities of the device. However, Purpura does disclose said limitation. See col. 9, lines 35-39 and col. 11, lines 20-23. Hence, it would have been obvious for an artisan of ordinary skill in the art to combine the teachings of Koehne with the mobile apparatus for configuring portable devices as taught by Purpura. Such system would provide for hardware and

software configuration of different devices. Claim 35: Koehne substantially teaches the article of claim 33 as discussed above, wherein the instructions, when executed, further result in: polling to determine logical capabilities of the article, wherein dynamically generating the client classmark includes generating a client classmark for the article based upon the logical capabilities of the mobile device. Koehne explicitly teaches available modes of operation at paragraph 0043. (the modes of operation supported are directly related to on-board software and also see paragraphs 0043-0057.

As to claim 36, Koehne substantially teaches the article of claim 33 as discussed above, wherein the instructions, when executed, further result in allowing a user to define preferences for the mobile device, wherein dynamically generating the client classmark includes generating a client classmark for the article based upon the user-defined preferences. (See paragraphs 0043-0056).

As to claim 38, Koehne substantially teaches the article of claim 33 as discussed above, wherein the instructions, when executed, further result in: adjusting execution of an application on a processor in the mobile device depending the client classmark. (See paragraphs 0043-0057).

8. Claim 37 is rejected under 35 USC 103(a) as being unpatentable over Koehne (EP 0 980 190 A1 in view of Purpura (US 6,973,518) in further view of Rawson III (US 6,480,966.)

As to claim 37, Koehne substantially teaches the article of claim 33 as discussed above. Both Koehne and Purpura are silent as to:

determining a current load of a processor in the mobile device, wherein updating the client classmark includes updating the client classmark for the device based upon the current load of the processor.

However, Rawson explicitly teaches this limitation throughout specifically at col. 4, lines 25-30. Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the teachings of Koehneand and Purpura with the performance monitor as taught by Rawson because performance counters would permit processor's performance parameters to be monitored and measured where the information obtained from these counters would then be used for tuning system performance.

Response to Arguments

9. Applicant's arguments have been fully considered but are not persuasive. Applicant argues in substance that Roel does not disclose Roel does not disclose a classmark to determine one or more current attributes of the mobile device.

In response, Roel teaches a system and method for determining a mobile's device position on a network (see abstract). Roel also teaches the system and method use classmarks to determine the capabilities of a mobile device. Roel explicitly teaches the classmark information element 3" 310 can be extended to include MS 300 positioning capabilities. The classmark information message 310 typically describes attributes of the MS 300, such as encryption capabilities, RF power level supported and short message capability "one or more attributes" (see col. 4 lines 60-col. 5 lines 10).

10. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hussein A. El-chanti whose telephone number is (571)272-3999. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571)272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hussein Elchanti

Nov. 20, 2006

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